IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 21088 of 1999

Between:

HETERO DRUGS LIMITED, Hyderabad, a company incorporated under Companies Act, 1956, rep. by its Director Sri A.V.Narasa Reddy, S/o Raghupathi Reddy, R/o Hyderabad.

..... PETITIONER

AND

1 Deputy Commissioner, (Anti-Evasion) O/o. The Commissioner of Customs and Central Excise, Hyderabad-I ,Commissionerate, Hyderabad.
2 Commissioner of Customs (Air), Customs House, 33 Rajaji Salai, Chennai.
3 Commissioner of Customs (Sea), Customs House, 33 Rajaji Salai, Chennai.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ in the nature of Writ of Mandamus or any other appropriate writ or order or direction, declaring the order of the respondent No.1 in Ref.No.HQAE.No.84/99, dt.29.9.1999 as illegal, arbitrary and inoperative and set-aside the same and pass

Counsel for the Petitioner: MR.P.VASUDEVA REDDY

Counsel for the Respondent No.: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. This writ petition was filed challenging an order dt. 29.9.1999. By this impugned order the amount of Modvat Credit lying in balance in RG-23A, Part-II as well as RG-23C, Part-II was frozen. When this writ petition was entertained, this Court passed an interim order on 15.10.1999 which reads as under,

> "In the meanwhile, the goods will be allowed to be clared to the extent of availment of 50% of the MODVAT credit now available subject to the condition of the petitioner furnishing bank guarantee for 25% (i.e., half of the amount of duty for which MODVAT credit allowed to be availed of)."

The learned counsel for the petitioner submits that the impugned order was also challenged by way of an appeal and it has already been set aside, therefore he does not want to pursue the writ petition as it becomes infructuous. The writ petition is accordingly dismissed as infructuous. However, it is made clear that the bank guarantee given by the petitioner in terms of the order of this Court dt. 15.10.1999 also ceased to remain in operative and the petitioner can take steps to recover the documents. No costs.

_____

BN J.

_____

SAR J.

Dt.10.11.2004

KR

Sd/-

ASST. REGISTRAR

//True copy//

Section Officer

To

1 Deputy Commissioner, (Anti-Evasion) O/o. The Commissioner of Customs and Central Excise, Hyderabad-I ,Commissionerate, Hyderabad.
2 Commissioner of Customs (Air), Customs House, 33 Rajaji Salai, Chennai.
3 Commissioner of Customs (Sea), Customs House, 33 Rajaji Salai, Chennai.

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